

Senate Resolution No. 16

Introduced by Senators Lieu and Anderson

Relative to Section 215 of the USA PATRIOT Act

WHEREAS, Section 215 of the USA PATRIOT Act (50 U.S.C. Sec. 1861) authorizes the government to collect “tangible things” that are “relevant” to an authorized national security investigation; and

WHEREAS, The National Security Agency (NSA) has reportedly used Section 215 to collect metadata on every telephone call made or received by every American over the last seven years; and

WHEREAS, This metadata collected by the NSA was not limited to dialed numbers, but also included the telephone numbers of incoming calls, the times of calls, and call routing information; and

WHEREAS, The federal Foreign Intelligence Surveillance Act (FISA) Court found in 2011 that the NSA illegally collects tens of thousands of Internet transactions between Americans within the United States in violation of the Fourth Amendment to the United States Constitution; and

WHEREAS, Until 2011, the FISA Court, charged with the judicial oversight of the NSA to ensure no laws are broken, was unaware of the acquisition of tens of thousands of Internet transactions involving Americans within the United States who were not connected to any legitimate investigation; and

WHEREAS, Many legislators who voted for the USA PATRIOT Act, including the past chairman of the authorizing committee of that law, have stated that the NSA’s blanket surveillance program goes far beyond what the USA PATRIOT Act was intended to do; and

WHEREAS, The government revelation in 2011 regarding the NSA’s acquisition of Internet transactions marked the third instance in less than three years in which the government had disclosed a substantial misrepresentation regarding the scope of a major collection program; and

WHEREAS, The Director of National Intelligence, James Clapper, Jr., has admitted to misleading Congress about the actual scope of the call record surveillance program; and

WHEREAS, Section 215 is silent as to how the government may use these records once it has obtained them; and

WHEREAS, The Fourth Amendment to the United States Constitution states: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized”; and

WHEREAS, The United States Constitution, including the Fourth Amendment, applies at all times to all government agencies and all government employees; and

WHEREAS, All Americans cannot reasonably be considered to be suspicious simply for making or receiving telephone calls; and

WHEREAS, The NSA’s seizure of the telephone records of all Americans is therefore an “unreasonable seizure” by any definition of the term; and

WHEREAS, An NSA audit, dated May 2012, counted 2,776 incidents in the preceding 12 months alone of unauthorized collection, storage, access to, or distribution of legally protected communications; and

WHEREAS, On June 7, 2013, United States Senator Rand Paul introduced legislation, the Fourth Amendment Restoration Act of 2013 (S. 1121), that would explicitly state that the Fourth Amendment to the Constitution shall not be construed to allow any agency of the United States Government to search the telephone records of Americans without a warrant based on probable cause; and

WHEREAS, The bipartisan Amash-Conyers amendment to the Department of Defense Appropriations Act (H.R. 2397) would have ended the NSA’s blanket seizure of the telephone records of Americans, but was narrowly defeated on July 24, 2013; and

WHEREAS, On August 1, 2013, United States Senator Al Franken introduced legislation, the Surveillance Transparency Act of 2013 (S. 1452), that would expand and improve ongoing government reporting about programs under the USA PATRIOT Act and the Foreign Intelligence Surveillance Act and make it easier for companies to voluntarily disclose information about the data the government requires them to collect; now, therefore, be it

Resolved by the Senate of the State of California, That the Senate urges the President and the Congress of the United States to pass legislation to end the NSA’s blanket, unreasonable, and unconstitutional collection of Americans’ telephone records and Internet transactions

and specifically to bar the NSA and other agencies from using Section 215 of the USA PATRIOT Act to collect records, including telephone records and Internet transactions, pertaining to persons not subject to an investigation under the USA PATRIOT Act; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States, and to the author for appropriate distribution.

Senate Resolution No. 16 read and adopted by the Senate September 6, 2013.

Attest: _____
Secretary of the Senate